

Remarks

Claims 1, 4-6, 9-11 and 14-15 are amended herein. Claims 1-15 remain pending in the case.

103(a) Rejections

Claims 1-15

In the Office Action, Claims 1-15 are rejected under 35 U.S.C. 103(a) as being obvious over Benitez et al. U.S. Patent No. 6,189,141 B1 (referred to hereinafter as "Benitez"). Applicant has reviewed Benitez and respectfully states that Benitez does not teach or render obvious the present invention for the following rationale.

Applicant respectfully states that Independent Claims 1, 6 and 11 include the feature "receiving a child process having inherited an instrumented parent process' context including the parent's program text that may have been modified by instrumentation." Support for the Claimed feature can be found throughout the Application including page 10, lines 2-5 of the instant application.

Applicant respectfully states that Benitez does not teach nor render obvious the features of the Claimed invention or address or provide any motivation for performing the uninstrumentation process based on a child process having inherited an instrumented parent process' context. For example, in the abstract, among other places, Applicant understands Benitez to teach a method and a system for reducing unnecessary translations and optimizations to increase the speed for executing code. This is accomplished by identifying traces

within the code and determining the frequency with which those traces are executed or emulated. If the traces are executed frequently, the traces are "hot traces" and are candidates for translation/optimization. However, if the traces are executed infrequently, the traces are "cold traces" and are not candidates for translation/optimization.

Moreover, as the Examiner has cited in column 29 lines 19-24, Applicant understands Benitez to teach that the hot trace optimizer and instrumenter also selectively removes a hot trace if control flow through it has decreased to or below a cold-trace threshold. That is, Applicant understands Benitez to teach that the frequency with which the traces are executed is tracked and compared to a threshold to determine which traces are "hot" and which traces are "cold" and acts based on those features alone.

In contrast, embodiments of the instant application provide for uninstrumentation may arise when a child process inherits the instrumented parent process' complete context. For example, as discussed on page 10, lines 2-5 of the instant application, and clearly featured in Independent Claims 1, 6 and 11:

...the need for uninstrumentation may arise when a child process inherits the instrumented parent process' complete context including the parent's program text that may have been modified by instrumentation. In such a case, if no special handling is done at this point, the child process will execute the inherited instrumented code from the parent, thereby perturbing the measurements intended to be made exclusively on the parent process. In order to exclude the child process from any measurements, uninstrumentation as is taught by the present invention is performed by the child process.

Therefore, Applicant does not understand Benitez teach or render obvious "receiving a child process having inherited an instrumented parent process' context including the parent's program text that may have been modified by instrumentation," as recited by Claim 1, 6 and 11. Instead, as already discussed herein, Benitez discloses determining the frequency with which traces are executed as his motivation for performing the uninstrumentation process.

Therefore, Applicants respectfully submit that Benitez neither teaches, suggests nor renders obvious, among other things, "...receiving a child process having inherited an instrumented parent process' context including the parent's program text that may have been modified by instrumentation," as recited by Claims 1, 6, and 11. Therefore, Applicants respectfully states that Claims 1, 6 and 11 overcome the rejection of the instant application under 35 USC 103(a) on the basis of Benitez.

Because Claims 2-5 depend from Independent Claim 1, Claims 7-10 depend from Independent Claim 6, and Claims 12-15 depend from Independent Claim 11 and contain additional limitations that are patentably distinguishable over Benitez, these claims are also considered patentable over Benitez. Therefore, Applicants respectfully submit that the basis for rejecting Claims 2-5, 7-10 and 12-15 under 103(a) is traversed.

CONCLUSION

Based on the amendments herein and the argument presented above, Applicant respectfully asserts that Claims 1 through 15 overcome the rejections of record and, therefore, allowance of these Claims is respectfully solicited.


The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO LLP

Date: _____

9/20/05



John P. Wagner, Jr.
Reg. No. 35,398

Two North Market Street
Third Floor
San Jose, California 95113
(408) 938-9060